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EXAMINER

BAUGH, APRIL L

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 06/10/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/597,428

Applicant(s)

CRANDALL, EVAN STEPHEN

Examiner

April L Baugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Response to Amendment

Applicant has amended claims 1 and 18 therefore claims 1-29 are now pending.

Response to Arguments

1. Applicant's arguments with respect to claims 1 and 18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 18, and 19 rejected under 35 U.S.C. 102(b) as being unpatentable by US Patent No. 5,701,582 to Picco et al.

Regarding claim 1, Picco et al. teaches a method for outputting a performance, comprising: receiving broadcast performance information via a network; composing the performance by mixing information stored on a local storage device with one or more portions of the received broadcast performance information; and outputting the performance (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

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Regarding claim 18, Picco et al. teaches a pseudo-live performance output device, comprising: a controller that receives broadcast performance information via a network and composes the performance by mixing information stored on a local storage device with one or more portions of the received broadcast performance information; and an output device that outputs the performance (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Regarding claims 2 and 19, Picco et al. teaches the method of claim 1 and 18, further comprising: recording the performance information; and outputting a second performance using the recorded performance information as stored information (column 3, lines 1-9 and 25-27 and column 15, lines 8-30).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-12 and 20-29 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,701,582 to Picco et al. in view of Yoneda et al.

Regarding claims 3 and 20, Picco et al. teaches the method of claim 1 and 18 (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

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Picco et al. does not teach of commands. Yoneda et al. teaches the composing the performance comprising: retrieving one or more commands from the performance information (column 3, lines 10-19); decoding the one or more commands (column 4, lines 13-20); and performing one or more tasks instructed by the commands (column 3, lines 18-27). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by retrieving one or more commands and performing one or more tasks instructed by the commands because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

Regarding claims 5 and 22, Picco et al. teaches the method of claim 4 and 21 (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Picco et al. does not teach commands. Yoneda et al. teaches wherein executing the macro comprises: retrieving the macro based on the decoded one or more commands (column 3, line 66 through column 4, line 7); decoding the macro to generate a macro command sequence; and executing the macro command sequence (column 4, lines 13-20). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by retrieving the macro based on the decoded one or more commands and executing the macro command sequence because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

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Regarding claims 6 and 23, Picco et al. teaches the method of claim 5 and 22 (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Picco et al. does not teach commands. Yoneda et al. teaches wherein executing the respective commands comprises one or more of: generating a sequence of commands for outputting the performance (column 2, lines 20-31 and 46-64). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by generating a sequence of commands for outputting the performance because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

Regarding claims 9 and 26, Picco et al. teaches the method of claim 3 and 20 (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Picco et al. does not teach generating a sequence of commands and incorporating decoded commands into the sequence of commands. Yoneda et al. teaches further comprising: executing programming commands; generating a sequence of commands based on the executed programming commands; and incorporating the decoded commands into the sequence of commands (column 13, line 62 through column 14, line 4 and column 15, lines 4-11). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by incorporating the decoded commands into the sequence of

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commands because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user.

Regarding claims 10 and 27, Picco et al. teaches the method of claim 9 and 26 and wherein incorporating the decoded commands includes the one or more portions of the performance are added onto, interrupted, switched or replaced based upon the incorporated decoded commands (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Picco et al. does not teach commands. Yoneda et al. teaches wherein incorporating the decoded commands includes adding onto, interrupting, switching or replacing one or more commands within the sequence of commands (column 11, lines 59-64). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method for efficient transmissions of programs by adding onto, interrupting, switching or replacing one or more commands within the sequence of commands because these commands direct the system on how to reassemble and manipulate the video data and display the data for the user and commands may be updated by the user or system and therefore need to be incorporated into the sequence of commands to allow the system to operate in real-time.

Regarding claims 4 and 21, Picco et al. teaches the method of claim 3 and 20, wherein performing the one or more tasks comprises executing a macro (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Regarding claims 7 and 24, Picco et al. teaches the method of claim 5 and 22, wherein executing the macro command sequence comprises: retrieving audio and/or

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video synthesis information; retrieving information indicating desired output content; and generating synthesized performance information based on the audio and/or video synthesis information and the information indicating the desired output content (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30.).

Regarding claims 8 and 25, Picco et al. teaches the method of claim 3 and 20, wherein performing the one or more tasks comprises reproducing a real-time transmission included in the performance information (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Regarding claims 11 and 28, Picco et al. teaches the method of claim 3 and 20, wherein performing one or more tasks comprises: retrieving audio and/or video synthesis information; retrieving information indicating desired output content; and generating synthesized performance information based on the audio and/or video synthesis information and the information indicating the desired output content (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

Regarding claims 12 and 29, Picco et al. teaches the method of claim 3 and 20, wherein the one or more commands includes one or more of programming commands that execute a software program, housekeeping commands that load, delete, change or overlay stored information , and performance commands that instruct to reproduce stored information from one or more specified locations of a storage device (column 2, lines 37-41 and column 3, lines 1-9 and 25-27 and column 6, lines 19-29 and column 15, lines 8-30).

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Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent is cited to further show the state of the art with respect to pseudo-live performances in general: Frerichs et al. and Chaddha.
2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to April L Baugh whose telephone number is 703-305-5317. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal D Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALB


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER